

## REMARKS

This Response is submitted in reply to the non-final Office Action mailed on June 12, 2009. No fee is due in connection with this Response. The Commissioner is hereby authorized to charge any fees that may be required or credit any overpayment to the Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 115808-509 on the account statement.

Claims 35, 37, 39-41, 43, 45, 48-52 and 54-68 are pending in the application. Claims 1-34, 36, 38, 42, 44, 46-47 and 53 were previously canceled. In the Office Action, Claims 35, 37, 39-41, 43, 45, 48-52 and 54-68 are rejected under 35 U.S.C. §112 and Claims 35, 37, 39-41, 43, 45, 48-52 and 54-68 are rejected under 35 U.S.C. §103. In response, Claims 35, 45, 52 and 61 have been amended, and Claims 37, 39-41, 43, 54-56 and 65-68 have been canceled. These amendments do not add new matter. In view of the amendments and/or for at least the reasons set forth below, Applicants respectfully submit that the rejections should be withdrawn.

In the Office Action, Claims 35, 37, 39-41, 43, 45, 48-52 and 54-68 are rejected under 35 U.S.C. §112, first paragraph, as allegedly adding new matter. Applicants have amended Claims 35, 52 and 61 to recite that the pet is a cat and the liver function-promoter comprises taurine. The amendments are supported in the specification, for example, at page 9, lines 28-34 and Example 1. Based on at least these noted reasons, Applicants believe that the pending claims fully comply with 35 U.S.C. §112, first paragraph.

In the Office Action, Claims 35, 37, 39-41, 43, 45, 48-52 and 54-68 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants have canceled Claims 39, 41 and 43 and amended Claims 35, 52 and 61 to further clarify the scope of the pending claims. Based on at least these noted reasons, Applicants believe that the pending claims fully comply with 35 U.S.C. §112, second paragraph.

Accordingly, Applicants respectfully request that the rejections under 35 U.S.C. §112 be withdrawn.

In the Office Action, Claims 35, 37, 39-41, 43, 45, 48-52 and 54-68 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,471,999 to Couzy et al. ("*Couzy*") in view of U.S. Patent No. 5,290,571 to Bounous et al. ("*Bounous I*") or U.S. Patent No.

5,451,412 to Bounous et al. ("*Bounous II*"), and further in view of "Micronutrient status in patients with gastrointestinal disease" to Simpson et al. ("*Simpson*"), "Effect of Bacterial or Porcine Lipase With Low- or High-Fat Diets on Nutrient Absorption in Pancreatic-Insufficient Dogs" to Suzuki et al. ("*Suzuki*"), WO 01/62280 to Margolin et al. ("*Margolin*") and U.S. Patent No. 6,228,367 to Watson ("*Watson*"). Claims 35, 37, 39-41, 43, 45, 48-52 and 54-68 are rejected under 35 U.S.C. §103(a) as being unpatentable over WO 02/15719 to Fuchs et al. ("*Fuchs*") in view of *Bounous I* or *Bounous II*, and further in view of *Simpson*, *Suzuki*, *Margolin* and *Watson*. Applicants respectfully disagree with and traverse the rejections for at least the reasons set forth below.

Applicants have amended independent Claims 35, 52 and 61 to recite, in part, an edible composition comprising a pancreatic function-promoter comprising an acidifier, a liver function-promoter comprising taurine ranging between about 0.1% and about 1% by weight of the edible composition on a dry matter basis, and an intestinal mucosa function-promoter comprising fish oil ranging between about 0.1% and 20% by weight of the edible composition on a dry matter basis. The edible composition can improve or maintain or promote a cat's lipid absorption capacity. In contrast, Applicants respectfully submit that even if combined the cited references fail to disclose or suggest each and every element of the present claims.

Applicants have surprisingly found an improved method of enhancing vitamin E absorption by cats by feeding the cat a diet including a specific formulation of components. As shown by Example 1, a group of 20 cats with low fat digestibility (i.e. less than 80%) was fed diets A and B in a crossover design of two digestibility tests. Diet A was a typical diet and Diet B was a similar formulation as diet A further including an edible composition in accordance with the present claims. Each diet was fed to the cats for a 15-day digestibility test, the first 5 days being an adaptation period and the remaining 10 days as the fecal collection period. The cats were found to digest a significantly higher percentage of fat when fed diet B than when fed diet A. As a result, total energy digestibility and organic matter digestibility was improved in diet B. The cats were found to need a lower amount of diet B to cover their energy requirements than of diet A. Overall, the cats appeared to maintain their weight better when fed diet B than when fed diet A.

Applicants respectfully submit that the cited references alone or in combination fail to disclose or suggest a liver function-promoter comprising taurine ranging between about 0.1% and about 1% by weight of the edible composition on a dry matter basis as required independent Claims 35, 52 and 61. Applications also respectfully submit that the cited references fail to disclose or suggest the specific combination of the acidifier, taurine and fish oil in a single edible composition for improving or maintaining absorption of vitamin E in a cat as recited by independent Claims 35, 52 and 61.

Though *Couzy* mentions use of taurine, *Couzy* never teaches a level or range for taurine. *Couzy* does not mention emulsifiers. *Fuchs* also teaches use of emulsifiers and taurine, but without any usage levels. *Bounous I* teaches use of about 18-28 grams of whey protein per 100 grams of composition (18-28%). *Bounous II* teaches diets containing 20-28% whey protein pancreatic hydrolysate, with immunoenhancing effect maximized at 20% concentration. However, *Bounous I* and *Bounous I* along with *Watson* fail to teach the use of or even mention any taurine. The Patent Office relies on *Simpson*, *Suzuki* and *Margolin* arguably to teach lipid assimilation. Nevertheless, these secondary references also fail to disclose or suggest the claimed liver function-promoter and specific components in accordance with Claims 35, 52 and 61.

In sum, the cited references alone or in combination fail to disclose or suggest each and every element of independent Claims 35, 52 and 61. Moreover, the cited references fails to even recognize the advantages, unexpected benefits and/or properties of the edible composition in accordance with the present claims. Consequently, independent Claims 35, 52 and 61, along with the claims that depend from Claims 35, 52 and 61, are novel and non-obvious over the cited references.

Accordingly, Applicants respectfully request that the obviousness rejections with respect to the pending claims be reconsidered and the rejections be withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same. In the event there remains any impediment to allowance of the claims that could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate such an interview with the undersigned.

Respectfully submitted,

K&L Gates LLP

BY 

Robert M. Barrett  
Reg. No. 30,142  
Customer No. 29157  
Phone No. 312-807-4204

Dated: August 19, 2009